

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CORVON L. JONES,

Plaintiff,

v.

Case No. 15-C-51

POLICE OFFICER OMARLO PHILLIPS, et al.,

Defendants.

JURY TRIAL MINUTES
Hon. William E. Duffin, Presiding

DATE: June 26, 2017 to June 28, 2017 (3 days)

Plaintiff's Counsel: Bartholomew F. Reuter, David Lucey (6/26/17 only), Ryan Parsons

Defendant's Counsel: Naomi E. Gehling, Robin Pederson

Deputy Clerk: Mary Murawski

Date	Time Called	A.M. Break	Lunch Break	P.M. Break	Time Finished	Court Reporter
Mon.	1:28 p.m.	-----	-----	2:54 – 3:06	3:53	Heidi Trapp
Tues.	8:25 a.m.	10:20-10:32	12:08-1:10	1:46-2:01	4:55	Heidi Trapp
Wed.	8:17 a.m.	8:42-8:56 9:52-10:04 10:14-10:23	11:42 – 1:57 Jury Deliberation		2:07	Heidi Trapp

CONTINUED JURY TRIAL MINUTES
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MONDAY, June 26, 2017 – DAY 1

1:28 Case called; appearances noted.
1:29 Court reviews procedures.
1:42 Jury panel arrived and is sworn.
1:49 Court, counsel and Juror No. 7 to chambers for individual voir dire.
1:52 Parties return to courtroom.
2:25 Court and counsel discuss strikes for cause outside jury presence.
Jurors 1, 7, 10, 15, 16 struck for cause.
2:38 Counsel begin juror strikes.
2:50 Court reads 8 names selected.
2:53 Court excuses balance of jury panel.
2:54 Court recess.
3:06 Court reconvenes
3:07 Jurors sworn in.
3:07 Court advises jurors of preliminary jury instructions.
3:19 Plaintiff's opening statement
3:40 Defendant's opening statement
3:53 Court recess.

TUESDAY, June 27, 2017 – DAY 2

8:25 Court addresses plaintiff's Motion in Limine to exclude evidence. Court grants motion. No further reference to plaintiff's affiliation with any gang. Arguments heard re: resisting arrest/excessive force and the *Heck* decision.
8:35 Court sequestered witnesses.
8:35 Jury called.
8:37 Plaintiff calls **Michael Riley** to the stand.
8:54 Exhibit #16 – Video played.
8:58 **Exhibits 18–24**; offered, no objection, received.
9:03 Cross-examination of the witness. Attorney Gehling refers to 2 Google maps.
9:28 Witness steps down.
9:29 Plaintiff calls **Corvon Jones** to the stand.
10:20 Jury excused.
10:20 Court recess.
10:32 Oral motions by defendants.
10:32 Court denies the request for a mistrial. Defendants will be able to ask the plaintiff if he was convicted of resisting arrest for this incident.
10:40 Jury returns.
10:40 Cross-examination of the witness.
10:42 Counsel refers to plaintiff's prior testimony.
11:30 Witness steps down.
11:30 Plaintiff calls **Jack Dills, Jr.** to the stand. **Exhibits 16, 23-26**, offered; no objection; received.
11:45 Cross-examination.
12:07 Witness steps down.

CONTINUED JURY TRIAL MINUTES
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12:08 Jury excused.
1:10 Jury returns.
1:11 Plaintiff calls **Chris Walker** to the stand.
1:30 Cross-examination.
1:39 Witness steps down.
1:40 2/3/2015 deposition testimony of **Joseph Smith** read by Attorney Ryan Parsons and his associate.
1:46 Jury excused. Court recess.
2:01 Jury returns.
2:03 Plaintiff calls **Charles Grimm** to the stand as an adverse witness.
2:28 Direct examination of **Charles Grimm** by defendant.
2:37 Cross-examination.
2:38 Re-direct.
2:38 Witness steps down.
2:38 Plaintiff rests.
2:39 Jury excused.
2:40 Plaintiff has no oral motions at this time.
2:40 Attorney Pedersen asking for a Rule 50(a) motion, including arguments. Court will take motion under consideration.
2:45 Attorney Pedersen is asking for a mistrial, including arguments. Court will take motion under advisement.
2:57 Jury returns.
2:59 Defendants call **Police Officer Jacob Spano** to the stand. Attorney Gehling refers to Exh. 4.
3:37 Cross-examination.
3:42 Re-direct.
3:43 Witness steps down.
3:44 Defendants call **Police Officer Joseph Zawikowski** to the stand. Attorney Gehling refers to Exh. 4.
4:02 Cross-examination.
4:06 Witness steps down.
4:06 Defendants call **Detective Omarlo Phillips** to the stand.
4:21 Cross-examination.
4:28 Refers to **Exhibit 4**, offered, no objection, received.
4:29 Re-direct.
4:30 Witness steps down.
4:31 Jury excused.
4:32 The witnesses left to testify for the defendant are Officer Tuschl and Officer Floyd. Plaintiff anticipates no rebuttal witnesses at this time.
4:32 Court discusses jury instructions with counsel. Counsel to propose jury instructions on the *Heck* issues. Indemnification issue was not a proper inquiry, court looking *at Lawson vs. Trowbridge*, 153 F.3rd 368, and remedy for that would be curative instructions. Court requests defendant to propose curative instructions for that. If plaintiff wants to, he can also propose curative instructions. Regarding the basis for mistrial, parties to submit something in writing and the basis for their request. Court will give counsel a draft of jury instructions and special verdict to review.
4:55 Court recess.

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WEDNESDAY, June 28, 2017

8:17 Court discusses with counsel the jury instructions. Counsels' comments to what was given. Counsel to work on language on jury instruction 7.16. Parties have a draft of the *Heck* and curative instructions. Plaintiff addresses *Lawson vs. Trowbridge*.

8:31 Attorney Gehling has issues with special verdict, it is important that the question include at least a portion of *Heck* language.

8:33 Court disagrees. That can be addressed in jury instructions.

8:34 Defendant brings up the special verdict and the compensatory damages broken down by defendant. Do not believe it should be broken down. Court will review that request.

8:35 Plaintiff addresses jury instruction 7.9 and additional language they would like to add.

8:37 Defendant objects. They have not had time to review the cited cases.

8:37 Plaintiff's arguments in support of the additional language.

8:42 Court recess.

8:56 Court continues to review Jury Instructions and Special Verdicts with counsel.

8:59 Jury called.

9:01 Defendants call **Police Officer Kent Tuschl** to the stand.

9:14 Cross-examination.

9:19 Re-direct.

9:20 Re-cross.

9:22 Re-direct.

9:24 Witness steps down.

9:25 Plaintiff calls to the stand **Police Officer Daniel Floyd**.

9:31 Cross-examination.

9:32 Witness steps down.

9:32 Defendants rest.

9:32 Plaintiff has no rebuttable witnesses.

9:33 Jury excused.

9:34 Plaintiff's draft of jury instruction 7.16 submitted to Attorney Gehling. Arguments heard.

9:40 Exhibits 4, 16, 18-26 admitted into evidence.

9:41 Defendants' objection and argument to Jury Instruction No. 7.9.

9:44 Plaintiff's response and argument to Jury Instruction No. 7.9.

9:45 Defendants are renewing their Rule 50(a) motion. Arguments heard.

9:51 Court will take it under advisement. Court cites case law for parties to review.

9:52 Court recess.

10:04 Court reviews with counsel the Special Verdict and Jury Instructions. Arguments heard.

10:14 Court recess.

10:23 Court resumes.

10:24 Jury returns.

10:25 Court instructs jury on the law and reads the Special Verdict and Jury Instructions to the Jury.

10:50 Plaintiff's closing argument.

11:07 Defendant's closing argument.

11:41 Swear in CSO.

11:42 Jury excused for deliberation.

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1:57 Jury returns
1:58 Jury enters verdict; Court publishes verdict.
1:59 Jury polled at plaintiff's request.
2:00 Jury exits.
2:01 Court addresses counsel.
2:07 Court adjourned.